



THE
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April 14, 2023

By ECF

Hon. Lewis J. Liman
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: **725 Eatery Corp., et al. v. City of New York, et al.,
Case No. 02 CV 4431 (WHP)**

**59 Murray Corp., etc., et ano. v. City of New York, et al.,
Case No. 02 CV 4432 (WHP)**

**Club at 60th Street, et al. v. City of New York
Case No. 02 CV 8333 (WHP)**

**336 LLC v. City of New York
Case No. 18 CV 3732 (WHP)**

Your Honor:

This office represents Defendants in the four above-referenced related actions. We write on behalf of all of the parties to respectfully request a four week extension of time (to May 26, 2023) for the parties to file their briefing papers currently due on April 28, 2023; the briefs that are currently due on that date are Defendants' reply in support of their motion for summary judgment and in opposition to Plaintiffs' cross-motions for summary judgment, and the Plaintiffs' reply in support of their motions for partial summary judgment.¹ This is the first such request to

¹ Plaintiffs filed partial motions for summary judgment and Defendants filed a motion for summary judgment on all claims on September 16, 2022. Opposition to both sets of motions were filed on Continued...

extend the time to submit these briefing papers, and as noted, Plaintiffs' counsel consent to the request.

The extension is requested to enable Defendants sufficient time to address certain arguments raised in Plaintiffs' opposition to Defendants' motion for summary judgment and in support of their cross-motions for summary judgment. Specifically, the City of New York's Department of City Planning must conduct an additional new analysis, possibly in consultation with the City's Department of Finance, to address Plaintiffs' argument with respect to the impact of mixed-use building code lots on the availability of alternative locations for adult establishments, as such lots could conceivably contain a house of worship sensitive receptor that may affect the number of available alternative locations for adult establishments. Additionally, extra time is needed due to deadlines in other pending litigation.

Defendants expect to submit the results of their analysis, together with their combined brief in opposition to plaintiffs' cross-motions and reply in further support of their motion for summary judgment of no more than 25 pages. Since the Plaintiffs' reply memoranda of law in support of their motions for partial summary judgment are also due on April 28th, the parties believe that it would be appropriate to also extend to May 26th the Plaintiffs' time to submit these briefs.

Upon the filing of the Defendants' briefing papers, it is anticipated that the Plaintiffs and the Defendants will work collaboratively (as they have done in the past) to agree upon a third supplemental joint statement of facts that addresses the issues raised by the mixed used building code lots, and be able to agree on a Stipulation within thirty days of Defendants' filing, which will eliminate the need for any discovery with regard to the City analysis and data. In order to accommodate that anticipated further Stipulation, the parties respectfully request a two month adjournment (to July 19, 2023) of the time for Plaintiffs to submit their reply briefings in further support of their cross-motions for summary judgment, currently due on May 19, 2023, which briefings would also address the new mixed use building code assertions set forth in Defendants' forthcoming briefing.

We thank the Court for its consideration.

Respectfully submitted,

Kerri A. Devine /s/

Kerri A. Devine
Assistant Corporation Counsel

cc: All Plaintiffs' Counsel (via ECF)

March 28, 2023, as well as Plaintiffs' cross-motion for summary judgment on the remaining claims.